

TO: Zoning Board of Adjustment
FROM: Community Development Department
DATE: July 13, 2016

RE: **CASE #BA-16-003**
REQUEST: Variances from Section 15.05.050 Site Development Regulations in the R-1/Single Family Residential District along with a variance from Section 15.26.040(01) in order to enlarge a nonconforming accessory structure.

APPLICABLE

CODE SECTIONS: **§15.08B.050 R-1/Single Family Residential District – Site Development Regulations:**

<u>Minimum Setback</u>	<u>Accessory Structure</u>
<i>Front Yard</i>	<i>Greater of 25 feet or existing front yard setback of principal structure</i>

15.26.040 - Nonconforming structure

01. Enlargement of Nonconforming Structure. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity; however, a nonconforming structure may be altered to decrease its nonconformity.

RELIEF SOUGHT: A 26-foot front yard setback variance to allow the construction of an accessory structure closer to the front property line than the existing principal structure and a variance to enlarge a nonconforming structure by constructing a 14' x 28' addition onto an existing nonconforming accessory structure at 26 Buena Vista Drive.

LEGAL

DESCRIPTION: Part of Lot 1, Auditor's Subdivision of the NW1/4 NE1/4 of Section 24-75-44 described as beginning at the Southwest corner of Lot 1, thence North 129.5 feet, thence East 363.9 feet, thence Southeast 135.9 feet, thence West 460 feet to the Point of Beginning.

APPLICANT: Michael and Joan Rau, 26 Buena Vista Drive, Council Bluffs, IA 51503

BACKGROUND INFORMATION – The applicants are requesting the above described variances in order to construct a 14' x 28' addition onto the front of an existing accessory structure (shop) on their property at 26 Buena Vista Drive. The house is approximately 45 feet back from the front property line and the shop is approximately 24 feet behind the front line feet (as shown on the site layout sketch prepared by staff) which causes it to be a nonconforming structure. The proposed addition would be approximately 19 feet from the lot line. Mr. Rau has cited the irregular slope of the property as the reason for the requested variances.

CURRENT ZONING AND LAND USE – The surrounding land use and zoning is strictly single family residential.

CITY DEPARTMENTS AND UTILITIES – No adverse comments have been received from any City department or utility.

NEIGHBORHOOD RESPONSE – Daniel C. Wichman, 1904 Grand Avenue is opposed to the request. A written explanation is to follow.

COMMENTS

Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when 'unforeseen

applications of this Ordinance... create particular hardships'. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant's right to some relief, but not to the entire relief requested. (§15.02.080 – Variances)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity.* The size, shape and topography of the property is typical of the surrounding area. The elevation of the west part of the lot does drop considerably but the area in front of the shop also drops off considerably, which would require significant grading. The area directly behind the shop is relatively flat which would accommodate the proposed addition.

2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property.* If the request is denied, the applicant can still make reasonable use of the property as a residential use. An addition could be added to the rear of the shop.

3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property.* There is no disadvantage created by the owner or previous owner. The proposed placement of the addition is a design preference and not a genuine hardship for which relief is necessary. The need for a variance is the result of the preference of the property owner to build the addition onto the front of the shop instead of the rear.

4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district.* A special privilege will be conferred on the applicant if the variance is approved. The applicant has not demonstrated a hardship caused by the Ordinance which is specific to his property, only a desire to construct an addition onto a nonconforming structure which increases its nonconformity. He has not proven he cannot make reasonable use of the property as a residential use without the additional shop space.

5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance.* The variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this ordinance that create particular hardships. Staff feels the applicant's request does not meet this criteria. The subject property has sufficient size and topography to accommodate an addition onto the shed with no relief needed.

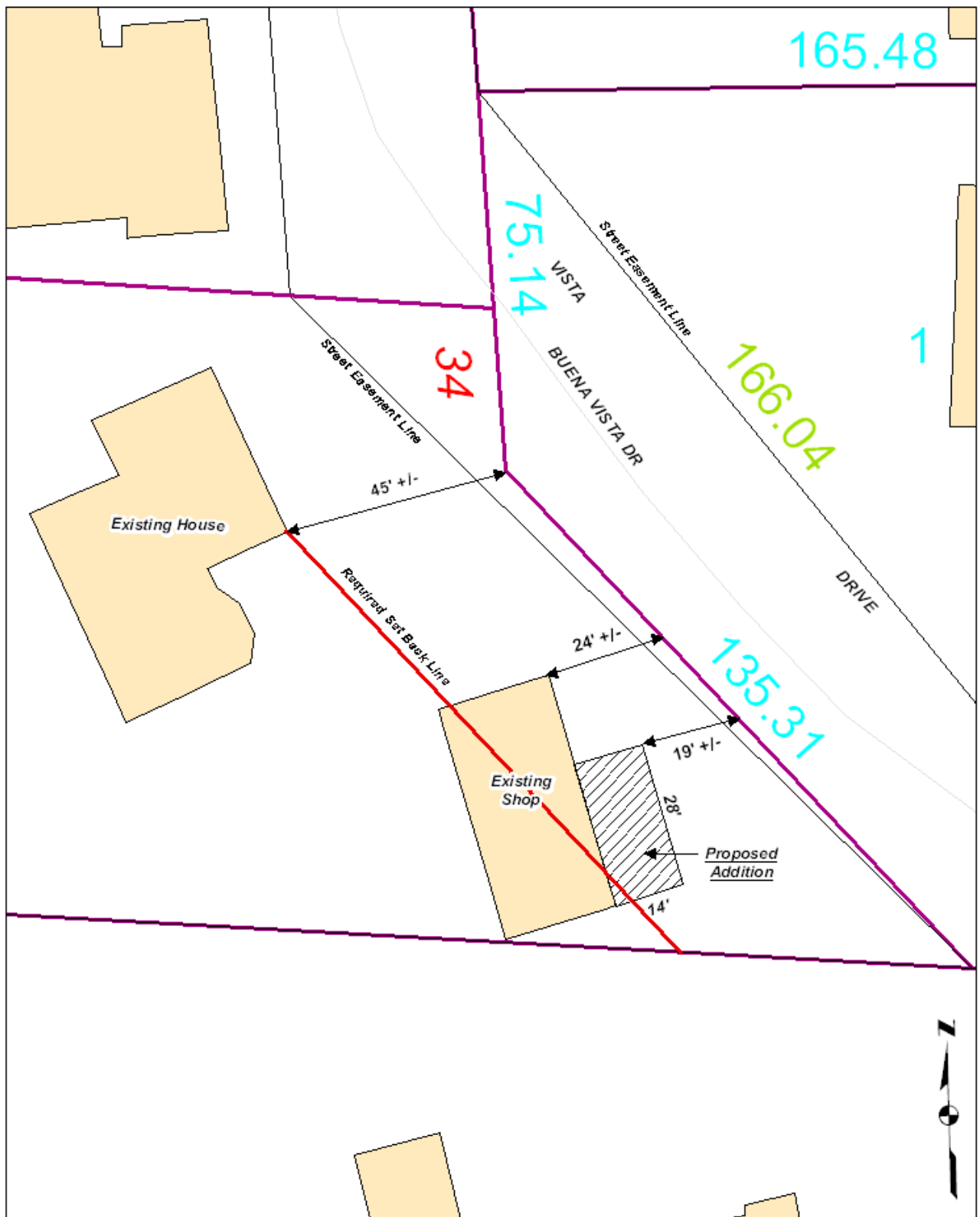
RECOMMENDATION

The Community Development Department recommends denial of the request for variances from Section 15.08B.050 Site Development Regulations in the R-1/Single Family Residential District along with a variance from Section 15.26.040(01) in order to enlarge a nonconforming accessory structure at 26 Buena Vista Drive.

Donald D. Gross, Director

Rebecca Sall, Assistant Planner

REB/RLS



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Pottawattamie County Web Map



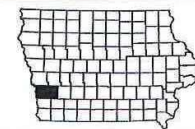
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1in = 64ft

Map Published: 7/11/2016

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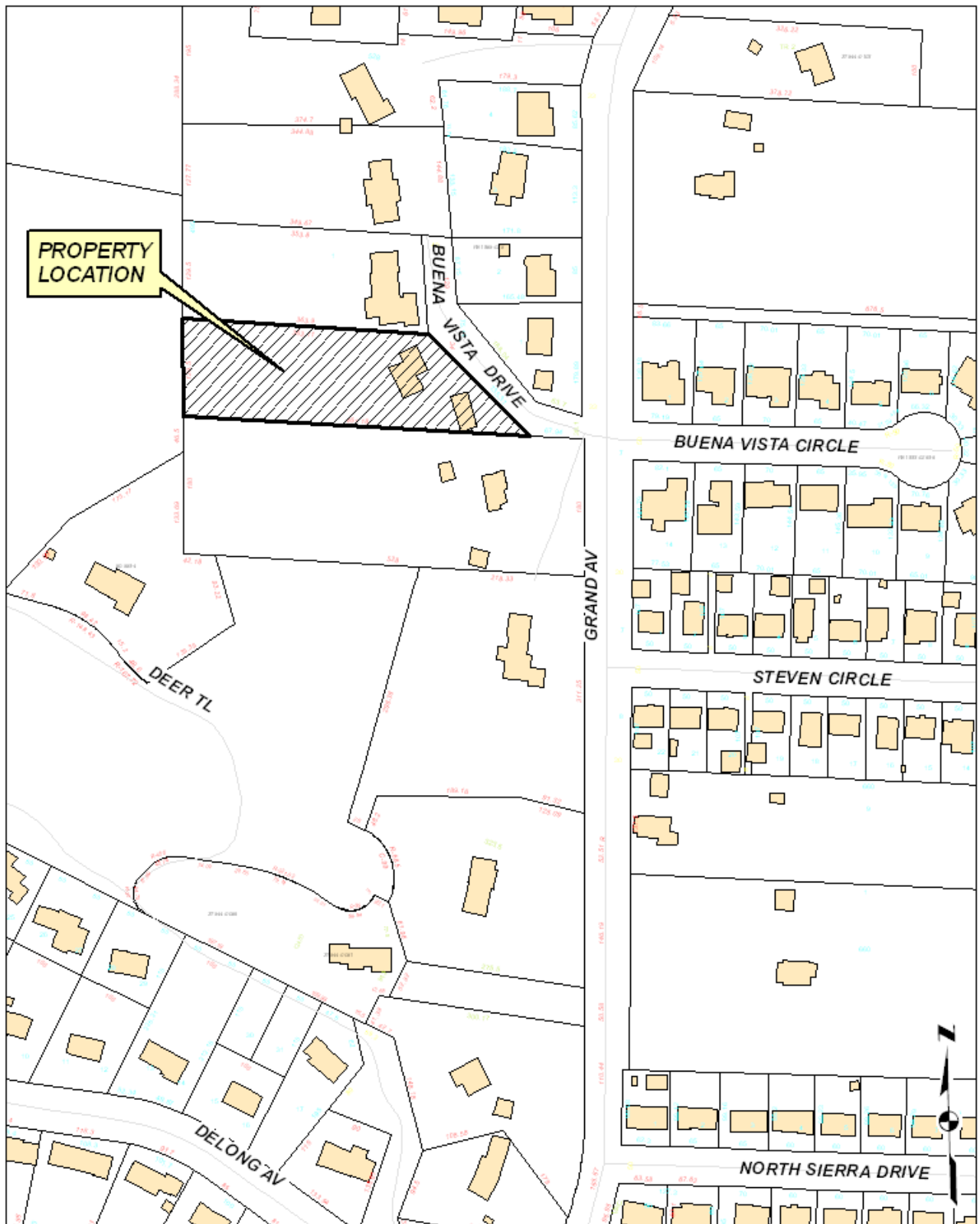




Area behind the existing shop.



Looking up from the street at front of existing shop.



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